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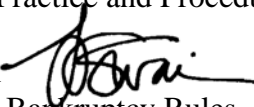
ROBERT L. HINKLE
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November 16, 2009

MEMORANDUM

To: Chief Judges, United States District Courts
Chief Judges, United States Bankruptcy Courts

From: Honorable Lee H. Rosenthal 
Chair, Committee on Rules of Practice and Procedure

Honorable Laura Taylor Swain 
Chair, Advisory Committee on Bankruptcy Rules

RE: TRANSITION TO SHORTENED DEADLINES UNDER CERTAIN OF THE AMENDED
TIME-COMPUTATION RULES **(IMPORTANT INFORMATION)**

As you are aware, the time-computation amendments to the Federal Rules of Bankruptcy Procedure, Civil Procedure, Criminal Procedure, and Appellate Procedure go into effect on December 1, 2009. These amendments implement a consistent method of calculating time periods throughout the federal rules. This consistent method is to count every day, instead of the current method of excluding weekends and holidays for some periods but not others. Congress has enacted changes to 28 statutory time periods affecting court proceedings to be consistent with this new, simplified computation approach. Courts across the country have revised their local rules effective December 1 to be consistent with the national rule and statutory changes. We now write to ask your further assistance in ensuring a smooth transition to the amended rules.

Most of the amendments lengthen time periods by a few days, to offset the effect of counting weekends and holidays and to express time periods of less than 30 days in 7-day multiples, for simplicity and ease of application. The result of these two changes in most of the rules is either to maintain the status quo or lengthen periods: 5-day periods will become 7-day periods, and 10-day periods will become 14-day periods. There are twelve Bankruptcy Rules that are an exception to the general lengthening in the rules.¹ These twelve rules have time periods that will be *shortened* by one day. These twelve rules now have 15-day periods; as amended, these rules will have 14-day periods, consistent with all the other rules that are set out in 7, 14, 21, or 28-day increments. Of special note are the deadlines in Rule 1007(c) for filing schedules, statements, and other documents; in Rule 3015(b) for filing a chapter 13 plan; and in Rule 8009(a) for filing appellate briefs.

¹ The affected rules are Bankruptcy Rules 1007, 1019, 1020, 2015, 2015.1, 2016, 3015, 4001, 4002, 6004, 6007, and 8009.

Despite the extensive notification and education efforts that have been undertaken in advance of the time-computation national and local rule changes, it is possible that some attorneys and parties will be unaware after December 1 of the one-day reduction in the time for taking action under these twelve Bankruptcy Rules. It is also possible that attorneys and others assisting debtors may not have fully conformed their office paperwork and procedures to accommodate the shortened deadlines by the December 1 effective date. Relying on past experience with a 15-day time period, and assuming mistakenly that all the time-computation amendments lengthen existing time periods, lawyers or litigants may unwittingly take action that is one day late.

In light of the potential consequences of noncompliance with the shortened deadlines, the Advisory Committee on Bankruptcy Rules has concluded that for these twelve rules, a filing that would have been timely before December 1 should be considered timely under the time-computation amendment for a six-month transition period. It is the position of the Advisory Committee that for these twelve rules, during the six-month transition period after December 1, a filing that was timely under the prior rule but late under the amended rule should be treated as the product of “excusable neglect” within the Rule 9006(b)(1) provision authorizing an enlargement of time requested after the deadline has expired. Similarly, timely applications for extensions to obtain the full 15-day period should also suffice to demonstrate “cause” warranting the grant of an extension request under Rule 9006(b)(1) during the six-month transition period.

To further reduce the likelihood of untimely filings and the need for extensions of time, we also request that your court continue its efforts to publicize the upcoming time-computation changes. In particular, we ask that you post on your court’s website, on the initial screen displayed on the CM/ECF system for persons filing electronically, and in the clerk’s office a conspicuous notice that specifically points out the rules for which time periods will be reduced by one day. The attachment contains suggested language that can be posted alone or added to existing notices about the upcoming time-computation changes.

We thank you for your continued support of the orderly implementation of these important rule amendments. If you have any questions or comments, please do not hesitate to let us know.

Attachment

cc: Judges, United States Courts of Appeals
Judges, United States District Courts
Judges, United States Bankruptcy Courts
Clerks, United States Courts

**Important Notice Regarding Time Period Changes Effective December 1, 2009,
Including 14-Day Deadlines for Filing Schedules, Statements, Chapter 13 Plans, and
Bankruptcy Appellate Briefs**

Among the time-computation amendments to the Federal Rules of Bankruptcy Procedure that will take effect on December 1, 2009, are changes to 12 rules that will result in a reduction by one day (from 15 to 14 days) of the time to take action. The affected rules are Bankruptcy Rules 1007, 1019, 1020, 2015, 2015.1, 2016, 3015, 4001, 4002, 6004, 6007, and 8009. Please take note of these changes and particularly of the new 14-day deadline for filing schedules, statements, and other documents under Rule 1007(c); for filing a chapter 13 plan under Rule 3015(b); and for filing appellate briefs under Rule 8009(a).